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GENERAL ELECTRIC COMPANY
GLOBAL RESEARCH
ONE RESEARCH CIRCLE
BLDG. K1-3A59
NISKAYUNA, NY 12309

EXAMINER
JUNG, JAY YOUNG

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Please find below and/or attached an Office communication concerning this application or proceeding.

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gpo.mail@ge.com
Lori.e.rooney@ge.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte HARJEET JOHAL,
KRISHNA KUMAR ANAPARTHI,
and JASON WAYNE BLACK

Appeal 2017-000276
Application 13/485,448
Technology Center 2100

Before JOHNNY A. KUMAR, JOYCE CRAIG, and ALEX S. YAP, *Administrative Patent Judges*.

KUMAR, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF CASE

Introduction

Appellants appeal under 35 U.S.C. § 134 from the Final Rejection of claims 1–20. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Exemplary Claim

Exemplary claim 1 under appeal reads as follows:

> 1. A frequency regulation system comprising:
> a sensor to detect a power grid signal;
> a frequency deviation identification module to determine a power grid frequency deviation from the power grid signal;
> a demand response module to identify an operating schedule for available loads based on frequency deviation set points and ramp rates; and
> a load control module to control the available loads based on the operating schedule.

Rejections

Claims 1–5, 8–12, 14, and 17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Forbes[1] and Miller.[2] Final Act. 2–9.

Claim 6 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Forbes, Miller, and Pratt.[3] Final Act. 9–10.

Claim 7 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Forbes, Miller, and Galligan.[4] Final Act. 10–11.

Claim 13 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Forbes, Miller, and Silverman.[5] Final Act. 11–12.

Claim 15 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Forbes, Miller, and Gunn.[6] Final Act. 12–13.

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[1] U.S. Patent App. Pub. No. 2011/0172837 A1 (July 14, 2011).
[2] U.S. Patent App. Pub. No. 2009/0218819 A1 (Sept. 3, 2009).
[3] U.S. Patent App. Pub. No. 2012/0200160 A1 (Aug. 9, 2012).
[4] U.S. Patent No. 4,783,307 (Nov. 8, 1998).
[5] U.S. Patent App. Pub. No. 2013/0035992 A1 (Feb. 7, 2013).
[6] U.S. Patent No. 5,517,190 (May 14, 1996).

Claim 16 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Forbes, Miller, and Sato.[7] Final Act. 13–14.

Claims 18–20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Forbes, Miller, and Chen.[8] Final Act. 14–17.

ANALYSIS[9]

We have reviewed the Examiner's rejection in light of Appellants' arguments (Appeal Brief and Reply Brief) that the Examiner has erred.

We disagree with Appellants' conclusions. To the extent consistent with the analysis below, we adopt as our own (1) the findings and reasons set forth by the Examiner in the action from which this appeal is taken and (2) the reasons set forth by the Examiner in the Examiner's Answer in response to Appellants' Appeal Brief. We concur with the conclusions reached by the Examiner. Ans. 2–4. We highlight and address specific arguments for emphasis as follows.

Appellants contend that the combination of Forbes and Miller does not teach "a demand response module to identify an operating schedule for available loads based on frequency deviation set points and ramp rates" (hereinafter "the disputed limitation"), as recited in independent claim 1. App. Br. 5–9.

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[7] U.S. Patent No. 6,338,009 B1 (Jan. 8, 2002).
[8] U.S. Patent App. Pub. No. 2007/0211887 A1 (Sept. 13, 2007).
[9] Independent claims 11 and 18 present the same dispositive issues as independent claim 1. App. Br. 9, 11. Separate patentability is not argued for claims 2–10, 12–17, 19, and 20; except for our ultimate decision, these claims are not discussed further.

> The Examiner finds, and we agree:
>
> Forbes' AGC system . . . transmits a *change in load operating schedule* to immediately reduce, thereby determining and executing a newly created load reduction schedule.

Ans. 3 (emphasis added) (citing Forbes ¶¶ 12, 105, 132).

> The Examiner also finds and we agree:
>
> Miller's techniques are directed to the same Automatic Generation control (AGC) augmentation system as used in Forbes for wind power plant (power generator) integration for controlling the power contribution to a grid and further provides the calculation of the area control error (ACE) by actively communicating generator's *ramp rate limits* and curtailment requests which contribute to ACE calculation. . . .
>
> Miller teaches in ¶32 that ramp rate is a monitored/indicating parameter for large increases in generation or decreases in load cause the power exchange to exceed specified threshold(s) thereby AGC system augmentation becoming active; furthermore, Miller's AGC performs an ACE augmentation calculation to yield a *ramp rate*.
>
> Therefore, *it would be obvious to utilize ramp rate as an indicating parameter, similar to that of Forbes' monitoring frequency deviation and wherein if an instability arises AGC system transmits a change in load operating schedule to immediately reduce, thereby determining and executing a newly created load reduction schedule* teaches the Appellant argued elements of independent claim(s). . . . [S]ince ramp rates and frequency deviations are both known indicators of grid instability/regulation monitoring parameters, it would have been obvious to use both ramp rates and frequency deviation as indicators for the AGC to trigger a determined load reduction schedule.

Ans. 3–4 (original emphasis omitted) (italics added) (citing Forbes ¶ 12; Miller ¶¶ 11, 32).

Thus, we find Appellants' contention that the applied art of record lacks the disputed limitation unavailing given Forbes' and Miller's above-noted disclosure.

We have considered Appellants' Reply Brief but find it unpersuasive in rebutting the Examiner's responses because Appellants rely on description in the Specification that is not recited in the claims. In addition, we agree with the Examiner's finding:

> Miller teaches in ¶32 that *ramp rate* is a monitored/indicating parameter for large increases in generation or decreases in load cause the power exchange to exceed specified threshold(s) thereby AGC system augmentation becoming active; furthermore, Miller's AGC performs an ACE augmentation calculation to yield *a ramp rate*.

Ans. 4 (citing Miller¶ 11, 32) (emphases added).

We are not persuaded the Examiner has erred because Appellants provide no persuasive evidence of the alleged error. Specifically, Appellants provide no persuasive evidence or argument regarding *why* the ramp rate as taught by Miller in combination with the teachings of Forbes does not meet the claimed disputed limitation. Rather, Appellants merely provide conclusory remarks that Miller's ramp rate is different from what is claimed. Reply Br. 4. It is well settled that mere attorney's arguments and conclusory statements, which are unsupported by factual evidence, are entitled to little probative value. *In re Geisler*, 116 F.3d 1465, 1470 (Fed. Cir. 1997); *In re De Blauwe*, 736 F.2d 699, 705 (Fed. Cir. 1984). Attorney argument is not evidence. *In re Pearson*, 494 F.2d 1399, 1405 (CCPA 1974). Nor can such argument take the place of evidence lacking in the record. *Meitzner v. Mindick*, 549 F.2d 775, 782 (CCPA 1977).

Accordingly, we find the Examiner did not err in rejecting claims 1–20 under § 103.

DECISION

We affirm the Examiner's § 103 rejections of claims 1–20.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED